

Message Text

CONFIDENTIAL

PAGE 01 SEOUL 05304 01 OF 02 131041Z

21

ACTION EA-14

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-11 L-03

NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03 SS-20

USIA-15 OMB-01 AID-20 IO-14 CU-05 NIC-01 DRC-01 /132 W

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P R 130955Z AUG 74

FM AMEMBASSY SEOUL

TO SECSTATE WASHDC PRIORITY 5368

INFO AMEMBASSY TOKYO

CINCPAC

C O N F I D E N T I A L SECTION 1 OR 2 SEOUL 5304

EO 11652: GDS

TAVE: PINT, PINS, KS

SUBJ: COURT-MARTIAL TRIALS

REF: SEOUL 5191

1. IN RESPONSE TO SEVERAL EMBASSY REQUESTS FOR HARD INFORMATION ABOUT MOST RECENT COURT-MARTIAL TRIALS, WHICH CULMINATED IN DIRECT REQUEST FROM ANBASSADOR TO PRIME MINISTER, COMMODORE LEE YANG WOO OF MND CALLED AT THE EMBASSY AUG 13 ATD GAVE AMBASSADOR REPORT ON CURRENT STATUS OF TRIALS, COMMODORE LEE IS LEGAL ADVISOR TO DEFENSE MINISTER AND SPOKESMAN FOR EMERGENCY COURTMA-

RTIAL BOARDS. HE SAID THAT SENTENCING OF 61 ADDITIONAL DEFENDANTS WHOSE TRIALS WERE INITIATED AUG 1 WITHOUT PUBLICITY (SEOUL 5164) WOULD TAKE PLACE AUG 14 AND THAT THIS WOULD CLOSE THE NFDYS CASE. ONLY REMAINING COURT-MARTIAL CASES HE SAID WOULD BE SIX NON-NFDYS CASES.

2. COMMODORE LEE GAVE AMBASSADOR STATISTICAL BREAK-DOWN OF CASES, WHICH WE WILL FORWARD BY POUCH. DATA SHOWS THAT OF 1042 PERSONS ARRESTED OR WHO TURNED
CONFIDENTIAL

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PAGE 02 SEOUL 05304 01 OF 02 131041Z

SELVES IN FOR VIOLATION OF EMERGENCY MEASURES ALL BUT

298 WERE RELEASED BY INVESTIGATING AUTHORITIES. OF THE REMAINING 298 TURNED OVER TO THE PROSECUTORS, PROSECUTION RELEASED AN ADDITIONAL 97 AND DECIDED TO TRY A TOTAL OF 196. FIVE CIVILIANS STILL ARE UNDER INVESTIGATION BY PROSECUTORS.

3. ACCORDING TO LEE'S FIGURES, CURRENT STATUS OF 196 BEING PROSECUTED IS AS FOLLOWS:

21--FINAL JUDGEMENT TAKEN BY SUPREME COURT;

15--PENDING IN SUPREME COURT;

55--PENDING IN LOWER APPEALS COURT;

44--SENTENCED BY COURT-MARTIAL BOARDS BUT NASES NOT YET APPEALED;

61--SENTENCES TO BE ANNOUNCED AUG 16 BY COURT-MARTIAL BOARDS.

LEE'S DATA ALSO PROVIDE CONTENTS OF FIRST AND SECOND COURT JUDGEMENTS AND BASIC DETAILS INCLUDING CHARGES AND PRISON TERMS FOR 37 LEADING OFFENDERS.

4. IN ADDITION TO DATE, COMMODORE LEE PROVIDED "CONFIDENTIAL" PAPER DISTRIBUTED TO TOP-LEVEL OFFICIALS IN ROKG DESCRIBING THE NFDYS "PLOT." FIFTY-SEVEN PAGE ROKG PAPER CLAIMS DPRK ORGANIZED PLOT TO OVERTHROW ROKG THROUGH MEDIUM OF PEOPLES REVOLUTIONARY PARTY (PRP) AND NUMBER OF COMMUNIST LEADING STUDENTS AND ANTI-GOVT ELEMENTS. CASE QAS "ULTIMATE" UNDERTAKING INVOLVING "MOST SERIOUS HIGH TREASON" IN GAOK HISTORY. ACCORDING ROKG SCREED PRP SECRETLY PLOTTED SINCE EARLY 60'S AND BUILT COMPREHENSIVE SYSTEM OF NETWORKS IN SCHOOLS AND OTHER COMMUNITIES CAREFULLY PLANNING STRATEGY FOR VIOLENT OVERTHROW OF GOVT. ALL CONNECTIONS DESCRIBED IN PREVIOUS EMBASSY REPORTING BETWEEN

DPRK, JAPANESE, PRP, AND NFDYS ARE OUTLINED IN DETAIL, CONFIDENTIAL

CONFIDENTIAL

PAGE 03 SEOUL 05304 01 OF 02 131041Z

AND NAMES, PLACES OF MEETINGS, AND REPORTS ON WHAT OCCURRED ARE SPELLED OUT. PREPARATIONS FOR UNIVERSITY DEMONSTRATIONS WHICH WERE DESIGNED TO PRECIPITATE NATIONAL UPRISING AND FINAL STEPS TO "PLANNED" APRIL 3 NATIONAL CAMPUS UPRISING ARE REITERATED. FINAL 15 PAGES OF REPORT OUTLINE SPECIFIC CHARGES AGAINST 17 PRINCIPLE DEFENDENTS INCLUDING BISHOP CHI AND YUN PO SUN.
COMMENT: WHILE REPORT

IS COMPREHENSIVE IT AMOUNTS
TO LITTLE MORE THAN GOVT REASSERTION OF WHAT IT HAS
LONG BEEN SAYING. NO CONCLUSIVE PROOF IS PRESENTED,
NO SOURCES OF EVIDENCE ARE CITED, AND SINCE TRIALS
HAVE BEEN CLOSED TO ALL BUT FAMILIES, WHO ARE UNDER
PRESSURE NOT TO TALK, IT IS DIFFICULT TO CROSS CHECK
VALIDITY OF CASE. ON ITS FACE IT IS UNCONVINCING.)

5. IN RESPONSE TO AMBASSADOR'S QUESTIONS, COMMODORE
LEE ALSO DISCUSSED FOLLOWING QUESTIONS REGARDING
PROCEDURES WHICH HAD BEEN FOLLOWED IN COURT-MARTIAL
TRIALS:

A. SECRECY: LEE DENIED TRIALS HAD BEEN SECRET.
FAMILY MEMBERS, AND REPORTERS AND DEFENSE LAWYERS HAD
ALL BEEN PRESENT. SUCH SEMI-CLOSED TRIALS ACCORDED
WITH PRINCIPLES OF KOREAN LAW AND WERE IN BEST SECURITY
INTEREST OF COUNTRY.

B. DEFENSE COUNSEL: ALL DEFENDANTS HAD BEEN GIVEN
RIGHT TO SELECT THEIR OWN LAWYERS.
IF DEFENDANTS WERE
TOO POOR OR WERE OTHERWISE UNABLE TO OBTAIN COUNSEL,
NATIONAL LAWYERS ASSOCIATION RECOMMENDED ATTORNEYS
WHOSE FEES WERE PAID BY ROKG.

CONFIDENTIAL

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PAGE 01 SEOUL 05304 02 OF 02 131105Z

12
ACTION EA-14

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-11 L-03

NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03 SS-20

USIA-15 OMB-01 AID-20 IO-14 CU-05 NIC-01 DRC-01 /132 W
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P R 130955Z AUG 74
FM AMEMBASSY SEOUL
TO SECSTATE WASHDC PRIORITY 5369
INFO AMEMBASSY TOKYO
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C O N F I D E N T I A L SECTION 2 OF 2 SEOUL 5304

C. WITNESSES AND CROSS-EXAMINATIONS: ALL DEFENDANTS
IN PRINCIPLE HAD RIGHT TO CALL
ANY WITNESSES THEY WISHED.
IN FACT MANY DEFENDANTS DID CALL WITNESSES. ALSO,
HOWEVER, MANY DEFENDANTS DID NOT.

D. GUILTY PLEAS: WHILE HE COUNDN'T BE PRECISE
COMMODORE LEE INDICATED THAT A SUBSTANTIAL NUMBER OF
DEFENDANTS HAD PLEADED GUILTY. MOST OF THE STUDENTS
HE SAID HAD "RECOGNIZED THE FACTS" AND HAD PLEADED
GUILTY. PRP DEFENDANTS WHO WERE HARD-CORE COMMUNIST
AND FOLLOWED STANDARD COMMUNIST PRACTICE HAD GENERALLY
PLEADED NOT GUILTY. THE EVIDENCE IN THEIR CASES HAD

BEEN OVERWHELMING, HOWEVER, AND THEY WERE CONVICTED.

E. AMNESTY: AFTER EACH STAGE OF SENTENCING, THE
MINISTER OF DEFENSE HAS RIGHT TO REDUCE SENTENCES HANDED
DOWN BY THE VARIOUS COURTS. ONLY THE PRESIDENT HOWEVER
AT THE CONCLUSION OF THE TRIAL
PROCEEDINGS HAS THE RIGHT
TO DECLARE AMNESTY.

F. TORTURE: COMMODORE LEE SAID ROKG OFFICIALS
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PAGE 02 SEOUL 05304 02 OF 02 131105Z

REALIZED THAT THERE WERE MANY RUMORS AND PRESS REPORTS
OF TORTURE. HE HAD SPENT MUCH TIME EXPLAINING THAT THIS
WAS NOT TRUE TO FOREIGN CORRESPONDENTS. ALL STUDENTS
IN THE NFDYS CASES HAD BEEN SPECIFICALLY ASKED THIS
QUESTION BY THE JUDGES AND HAD ANSWERED "NO." LEE
SAID HE HIMSELF HAD BEEN PRESENT AT ALL TRIALS AND COULD
AFFIRM "AT LEAST AS FAR AS THE NFDYS CASES WERE CONCERNED"
THAT THERE WERE NO "SEVERE INTERROGATIONS." LEE
ARGUED THAT IT WOULD HAVE BEEN IMPOSSIBLE TO OBTAIN
CORROBORATING TESTIMONY BY TORTURE FROM 200 INDIVIDUALS.

6. AS FOR RELEASING FURTHER INFORMATION REGARDING
THE VARIOUS EMERGENCY MEASURES CASES, COMMODORE LEE
SAID THAT ALL OF THE BASIC FIGURES PROVIDED PARA 3
WOULD BE ANNOUNCED AUG 14 WHEN THE SENTENCES IN THE
LAST 61 CASES WERE HANDED DOWN. THE ROK DID NOT PLAN
HOWEVER TO RELEASE DESCRIPTIVE DATA REGARDING THE NFDYS
"PLOT," AS NATIONAL SECURITY MATTERS WERE INVOLVED.
(COMMENT: WE ARE DOUBTFUL ABOUT THIS, SINCE "PLOT"
PAPER HAS BEEN DONE UP IN BOOKLET FORM IN ENGLISH
AND IS CLEARLY MEANT FOR EVENTUAL RELEASE.)

7. COMMENT: THE THEME RUNNING THROUGHOUT COMMODORE LEE'S

ANSERS AND CONTAINED IN THE PUBLICITY AND DATA HE GAVE IS THAT THE ROKG PLANS TO ACT IN ACCORD WITH LEGAL FORMS. AS IN MOFA'S ANSWERS TO CONGRESSMAN FRASER'S QUESTIONS (SEOUL 4821) LEE ASSERTED THAT EVERYTHING WAS AND IS BEING DONE IN ACCORD WITH ROK LAW. ROKG CLAIMS THAT THE DEFENDANTS BROKE THE LAW AND THEREFORE THEY HAD TO BE PROSECUTED. THEY WERE SUBSEQUENTLY TRIED IN FULL ACCORD WITH THEIR LEGAL RIGHTS.

8. THE TROUBLE WITH THE GOVERNMENT'S POSITION ACCORDING TO ITS CRITICS IS TWO FOLD:

1. THE LAWS OFFER REASONABLE MEN NO ALTERNATIVE BUT TO OPPOSE THEM; AND

2. THE CLAIMS ARE MERE ROKG ASSERTIONS AND IN FACT ARE UNTRUE.
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PAGE 03 SEOUL 05304 02 OF 02 131105Z

WHERE THE REAL TRUTH LIES REMAINS UNCLEAR, BUT IT IS SIGNIFICANT THAT THE ROKG ITSELF HAS NOT MADE A LOGICALLY CONVINCING CASE.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PENAL SYSTEM, PUBLIC DISCLOSURE, INTELLIGENCE COLLECTION, COURTS MARTIAL, STUDENTS, DIPLOMATIC DISCUSSIONS, POLITICAL SITUATION
Control Number: n/a
Copy: SINGLE
Draft Date: 13 AUG 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: CollinP0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974SEOUL05304
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740221-0788
From: SEOUL
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740851/aaaabrx.tel
Line Count: 253
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: SEOUL 5191
Review Action: RELEASED, APPROVED
Review Authority: CollinP0
Review Comment: n/a
Review Content Flags:
Review Date: 31 JUL 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <31 JUL 2002 by kelleyw0>; APPROVED <27 FEB 2003 by CollinP0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: COURT-MARTIAL TRIALS
TAGS: PINT, PINS, KS, NFDYS, (LEE)
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005